

# MINUTES

## SUTTONS BAY TOWNSHIP ZONING BOARD OF APPEALS

WEDNESDAY, JANUARY 26, 2022

6:00 P.M.

Suttons Bay/Bingham Fire Station Meeting Room  
201 S. St. Mary's Street  
Suttons Bay, MI 49682

With public participation available via Zoom electronic remote access:

Meeting ID: 840 9063 1825      Passcode: 49682

**Call to Order:** Chairman Chris Branson called the meeting to order at 6:00 p.m.

**Roll Call:**

Present: Chris Branson, Pete Ostrowski, Mary Nixon, Jeff Slocombe,  
Roger Suppes (Alternate Member)

Absent: Don Gregory

**Quorum Present**

Staff: Steve Patmore, Zoning Administrator

Guests: 4 present in-person  
6 guests present via Zoom

**Approval of Agenda:**

*Motion by Slocombe to approve the Agenda as submitted.*

*Seconded by Suppes,*

*Motion carried by voice vote*

**Schedule Meeting for a Variance Request:**

ZA Patmore stated that a ZBA meeting needed to be scheduled to consider a variance request. February 28<sup>th</sup> seemed to be available. Steve to confirm via email

**Conflict of Interest:**

Chair Branson asked if any member had a conflict of interest on any agenda item.

Member Slocombe stated he owns property at 1624 S. West Bay Shore Drive south of Northern Lumber and the subject property is down and across the road. This was not seen as a conflict – the subject property is not within 300 feet of his property.

Chair Branson stated he is an adjacent property owner from the subject property and his insurance business also handles Mr. Otto's insurance. He feels that this is a conflict and

would abstain from further discussion. There were no objections. Chair Branson then left the meeting.

Since Vice Chairman Don Gregory was absent, someone needed to be selected to chair the remainder of the meeting.

Mary Nixon nominated Jeff Slocombe with a second by Pete Ostrowski. Hearing no further nominations the question was called and unanimously passed.

**Agenda Items:**

1. Public Hearing and consideration of an appeal submitted by Patrick Otto, Leelanau Watersports, LLC, of a decision made by the Suttons Bay Township Planning Commission to deny an application for Site Plan Review for Leelanau Watersports at 1274 South Peck Rd., Suttons Bay. Property No. 45-011-033-030-00.

**Basis of the Appeal:**

1. Applicants contend that the reasons for Site Plan denial contained in the Minutes of the June 1, 2021 Suttons Bay Township Planning Commission are not valid reasons for denial of the Site Plan, namely:
  - A. Section 19.1 of the Suttons Bay Township Zoning Ordinance (Ordinance), which was referenced by the PC in the denial motion, is the Intent section of Article 19 - Site Plan Review, and is intended to delineate the purpose of the Article, not establish the standard for a particular Site Plan.
  - B. The Suttons Bay Township Planning Commission (PC) did not list specific reasons why the Site Plan did not meet Section 19.1.
  - C. Section 19.15 of the Ordinance, which was referenced by the PC in the denial motion, is titled "Establishing Conditions on Site Plan Approval" and cannot be the basis of denial of a Site Plan. Section 19.15 allows the PC to establish conditions on a Site Plan approval, if certain criteria are met.
  - D. The PC did not list specific reasons why the Site Plan did not meet Section 19.15.
2. The Applicant contends that the Planning Commission did not follow the provisions of Article 19 in the denial of the Site Plan on June 1, 2021. Namely, the PC did not follow Section 19.14.A, which requires findings of fact associated with a denial.

**ZA Patmore explained the role of the ZBA in an appeal:**

Under the zoning ordinance, the Zoning Board of Appeals has the authority to hear and rule on an Appeal of a Planning Commission Decision, and the ZBA is being asked to review the Planning Commission's Decision as stated in the June 1 2021 Planning Commission Minutes.

It is the opinion of the Zoning Administrator, after conferring with the township legal counsel, that, if the Zoning Board of Appeals finds in favor of the Applicant in this matter, it would overturn the PC decision to deny of the Site Plan, however, it would not mean that the Site Plan is approved. The Site Plan would be remanded back to the Planning Commission to complete the review.

Public Comment: Slocombe opened the floor to public comment.

- Scott Howard, Olson and Bzdok, attorney for the Livingston's stated that he believed the denial should be affirmed as the planning commission cited 19.1 Intent and 19.15 Establishing Conditions on Site Plan Approval, which meant something and what they said was applicable to 19.13 Standards for Site Plan Review. He also added that the applicant is to provide the burden of proof and he is absent from the meeting. He also stated that the property is used as commercial boat storage which is only allowed in the Agricultural Zoning District.
- Gary Hoenshied stated he lives on Peck Road and stated that he understood that the applicant was not present at this meeting. He stated that he was concerned because the previous meeting was cancelled because the applicant could not make it that day.
- Wayne Livingston, adjacent neighbor gave the history of the application before the planning commission.
- Sharon Livingston stated that she wanted to see the M-22 Corridor protected from unsightly storage businesses.
- Susan Odom stated as the previous Chair of the Planning Commission and having served on the planning commission for the last 10 years, she believed that the planning commission fulfilled their responsibility and by denying the application based on 19.1 and 19.5, was sufficient.

Member Mary Nixon responded that the December 6, 2021 meeting was cancelled due to weather and hazardous weather conditions.

ZA Patmore noted that the applicant was sent emails notifying them of this meeting.

Written correspondence was received from Sharon Livingston, Jeremy Moehlig and Haggerty Plumbing and Heating and made part of the record.

Slocombe closed the public hearing, and asked board members if they had any questions or comments.

**Board Member Comments:**

Roger Suppes-stated that he believed that Section 4.4 (Commercial Storage) applied to this business as he saw it as a storage for boats and not a commercial business and should have been denied based on that fact.

ZA Patmore noted to the Zoning Board of Appeals that the Planning Commission, in a previous meeting, determined that this business qualified as a personal service business and was a permitted use in the Commercial Zoning District.

Mary Nixon- would like to see the application returned to the planning commission to develop a full set of findings of fact.

Pete Ostrowski-stated that he believed that Chair Odom’s statement during public comment speaks volumes and that the planning commission based their decision on months of review of the application and did not feel it met the criteria for approval.

Jeff Slocombe proposed (moved) that the members decide if they would support affirming the decision of the June 1, 2021 planning commission meeting that denied the application for Leelanau Water Sports 1274 Peck Road and to incorporate by reference the minutes of the previous meetings. A yes vote would be to affirm the decision by the planning commission.

A roll call vote was taken:

Mary Nixon-No  
Jeff Slocombe-Yes  
Pete Ostrowski-Yes  
Roger Suppes-Yes.

The decision of the planning commission was affirmed 3-1.

**Adjournment:** *Motion by Ostrowski supported by Suppes to adjourn.*

*Motion carried by voice vote.*

Meeting adjourned at 6:40 p.m.

Minutes recorded by Recording Secretary Marge Johnson

Reviewed by Staff.

***Minutes approved as-presented on February 28, 2022.***